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DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-801]

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Intent to Rescind Antidumping Duty New Shipper Reviews; 2013-2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (“the Department”) is conducting new shipper reviews of the antidumping duty order on certain frozen fish fillets (“fish fillets”) from the Socialist Republic of Vietnam (“Vietnam”). The period of review is August 1, 2013, through January 31, 2014. The review covers two companies that are producers and exporters of subject merchandise, Nam Phuong Seafood Co., Ltd. (“Nam Phuong”) and NTACO Corporation (“NTACO”). The Department preliminarily determines that Nam Phuong’s and NTACO’s sales to the United States were not *bona fide* and is preliminarily rescinding these new shipper reviews. Interested parties are invited to comment on these preliminary results.

DATES: EFFECTIVE DATE: (INSERT DATE OF PUBLICATION)

FOR FURTHER INFORMATION CONTACT: Matthew Renkey (Nam Phuong) or Steven Hampton (NTACO), AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2312 or (202) 482-0116, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 3, 2014, the Department published notice of initiation of new shipper reviews of fish fillets from Vietnam for the period August 1, 2013, through January 31, 2014.¹ On August 20, 2014, the Department partially extended the deadline for issuing the preliminary results by 60 days.² On October 29, 2014, the Department fully extended the deadline for issuing the preliminary results by an additional 60 days.³ The revised deadline for the preliminary results of these new shipper reviews is January 20, 2015.⁴

Scope of the Order

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*) and *Pangasius Micronemus*. These products are classifiable under tariff article codes 0304.29.6033, 0304.62.0020, 0305.59.0000, 0305.59.4000, 1604.19.2000, 1604.19.2100, 1604.19.3000, 1604.19.3100, 1604.19.4000, 1604.19.4100, 1604.19.5000, 1604.19.5100, 1604.19.6100 and 1604.19.8100 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the

¹ See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Initiation of Antidumping Duty New Shipper Reviews; 2013–2014*, 79 FR 18666 (April 3, 2014).

² See Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Steven Hampton, International Trade Compliance Analyst, Office V, Antidumping and Countervailing Duty Operations, regarding Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Deadline for Preliminary Results of Antidumping Duty New Shipper Reviews of Nam Phuong Seafood Co., Ltd. and NTACO Corporation, dated August 20, 2014.

³ See Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Steven Hampton, International Trade Compliance Analyst, Office V, Antidumping and Countervailing Duty Operations regarding Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Full Extension of Deadline for Preliminary Results of Antidumping Duty New Shipper Reviews of Nam Phuong Seafood Co., Ltd. and NTACO Corporation, dated October 29, 2014.

⁴ *Id.*

Harmonized Tariff Schedule of the United States (“HTSUS”).⁵ Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.⁶

Methodology

The Department is conducting these reviews in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (“the Act”) and 19 CFR 351.214. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“ACCESS”).⁷ ACCESS is available to registered users at <http://access.trade.gov> and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/enforcement/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

⁵ Until July 1, 2004, these products were classifiable under HTSUS 0304.20.6030 (Frozen Catfish Fillets), 0304.20.6096 (Frozen Fish Fillets, NESOI), 0304.20.6043 (Frozen Freshwater Fish Fillets) and 0304.20.6057 (Frozen Sole Fillets). Until February 1, 2007, these products were classifiable under HTSUS 0304.20.6033 (Frozen Fish Fillets of the species *Pangasius*, including basa and tra). On March 2, 2011, the Department added two HTSUS numbers at the request of U.S. Customs and Border Protection (“CBP”): 1604.19.2000 and 1604.19.3000. On January 30, 2012, the Department added eight HTSUS numbers at the request of CBP: 0304.62.0020, 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100.

⁶ *See* “Decision Memorandum for Preliminary Results of Antidumping Duty New Shipper Reviews: Certain Frozen Fish Fillets from the Socialist’s Republic of Vietnam” from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated January 20, 2015 (“Preliminary Decision Memorandum”), which is hereby adopted by this notice, for a complete description of the Scope of the Order.

⁷ On November 24, 2014, Enforcement and Compliance changed the name of its centralized electronic service system to ACCESS. The website location was changed from <http://iaaccess.trade.gov> to <http://access.trade.gov>. The Final Rule changing the references to the centralized electronic service system to ACCESS in the Department’s regulations can be found at 79 FR 69046 (November 20, 2014).

Bona Fides Analysis

As discussed in the *bona fides* memos, the Department preliminarily finds that the sales by Nam Phuong and NTACO are not *bona fide*, and that these sales do not provide a reasonable or reliable basis for calculating dumping margins.⁸ With respect to Nam Phuong, the Department reached this conclusion based on the totality of circumstances, namely: (a) the atypical nature of Nam Phuong's price; (b) the atypical involvement of other entities in the sale; (c) atypical circumstances surrounding production; and (d) late payment. With respect to NTACO, the Department reached this conclusion based on the totality of circumstances, namely: (a) the atypical nature of NTACO's price; (b) the atypical involvement of another entity in the sale; (c) atypical circumstances surrounding production; and (d) late payment. Because these non-*bona fide* sales were the only sales of subject merchandise that Nam Phuong and NTACO made during the POR, the Department is preliminarily rescinding these new shipper reviews.

Disclosure and Public Comments

The Department will disclose analysis performed to parties to the proceeding within five days after the date of publication of this notice.⁹

Interested parties are invited to comment on the preliminary results of these reviews. Interested parties may submit case briefs no later than 30 days after the date of publication of the

⁸ See Memorandum to James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, through Scot T. Fullerton, Program Manager, Office V, Antidumping and Countervailing Duty Operations, from Matthew Renkey, Senior International Trade Compliance Analyst, Office V, titled "New Shipper Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: *Bona Fide* Nature of Nam Phuong Seafood Co., Ltd.'s Sale," dated concurrently and hereby adopted by this notice; Memorandum to James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, through Scot T. Fullerton, Program Manager, Office V, Antidumping and Countervailing Duty Operations, from Steven Hampton, International Trade Compliance Analyst, Office V, titled "New Shipper Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: *Bona Fide* Nature of NTACO Corporation's Sale," dated concurrently and hereby adopted by this notice.

⁹ See 19 CFR 351.224(b).

preliminary results.¹⁰ Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than five days after the time limit for filing the case briefs.¹¹

Any interested party may request a hearing within 30 days of publication of the preliminary results in the *Federal Register*.¹² Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.¹³

The Department intends to issue the final results of these new shipper reviews, which will include the results of its analysis of issues raised in all comments and at any hearing, within 90 days of publication of these preliminary results, pursuant to section 751(a)(2)(B)(iv) of the Act.

Assessment Rates

Upon completion of the final results, pursuant to 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If we proceed to a final rescission of these new shipper reviews, Nam Phuong's and NTACO's entries will be assessed at the rate entered.¹⁴ If we do not proceed to a final rescission of these new shipper reviews, pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer) assessment rates on a per unit basis.¹⁵ We will instruct

¹⁰ See 19 CFR 351.309(c)(1)(ii). Parties submitting written comments must submit them pursuant to the Department's e-filing regulations. See <http://enforcement.trade.gov/download/access/home.html>.

¹¹ See 19 CFR 351.309(d)(1)-(2).

¹² See 19 CFR 351.310(c).

¹³ See 19 CFR 351.310(d).

¹⁴ See 19 CFR 351.212(c).

¹⁵ In the third administrative review, the Department determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission*, 73 FR 15479 (March 24, 2008).

CBP to assess antidumping duties on all appropriate entries covered by these reviews if any importer-specific assessment rate calculated in the final results of these reviews is above *de minimis*.¹⁶

In either case, the Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results in the *Federal Register*. The final results of these reviews shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of these reviews and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

Effective upon publication of the final rescission or the final results of these new shipper reviews, pursuant to section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e), the Department will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise by Nam Phuong and NTACO. If the Department proceeds to a final rescission of these new shipper reviews, the cash deposit rate will continue to be the per-unit Vietnam-wide rate for Nam Phuong and NTACO because the Department will not have determined an individual margin of dumping for Nam Phuong and NTACO. If the Department issues final results for these new shipper reviews, the Department will instruct CBP to collect cash deposits, effective upon the publication of the final results, at the rates established therein.

Notification to Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement

¹⁶ See 19 CFR 351.106(c)(2).

could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this determination in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: January 20, 2015.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. *Bona Fides* Analysis
5. Conclusion

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